

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT CHATTANOOGA

UNITED STATES OF AMERICA	)	
	)	
	)	Case No. 1:07-CR-87
v.	)	
	)	Chief Judge Curtis L. Collier
	)	Magistrate Judge Susan K. Lee
	)	
GARY JOHNSON	)	

**ORDER**

Defendant Gary Johnson (“Defendant”) filed a motion pursuant to 18 U.S.C. §§ 4241 and 4242 to determine his mental competency to stand trial, to determine whether he suffers from any diminished capacity, and to include an opinion regarding his sanity at the time of the offense (Court File No. 28). Magistrate Judge Lee ordered commitment for the requested evaluation pursuant to 18 U.S.C. §§ 4241, 4242 and 4247 (Court File No. 34). Karen Milliner, Psy.D., performed a forensic mental evaluation of Defendant, concluding that Defendant is not currently competent to stand trial, but there is a substantial probability he will attain the capacity to permit a trial to proceed in the foreseeable future if he is committed for treatment (Court File No. 46). This report also recommends Defendant be committed for such treatment. The report notes further assessment of Defendant’s mental state at the time of the alleged offense will be needed in order to answer the Court’s questions concerning sanity or diminished capacity at the time of the offense and recommends these questions be addressed after his current symptoms are resolved.

On August 5, 2008, Magistrate Judge Lee submitted a Report and Recommendation (“R&R”) recommending the Court find Defendant is not competent to understand the nature and consequences of the proceedings against him and not able to assist in his defense at this time. The R&R also details

Defendant's recommended commitment for treatment. Neither party has objected to the R&R. This Court thus **ACCEPTS** and **ADOPTS** Magistrate Judge Lee's R&R (Court File No. 47), pursuant to 28 U.S.C. § 636(b)(1). This Court hereby **ORDERS**:

(1) Defendant shall be committed to the custody of the Attorney General pursuant to 18 U.S.C. § 4241(d).

(2) The Attorney General shall hospitalize defendant for treatment in a suitable medical facility:

A. For a reasonable period of time not to exceed four (4) months as is deemed necessary to determine whether there is a substantial probability that in the foreseeable future he will attain the capacity to stand trial, and

B. For an additional reasonable period of time until:

1. Defendant's mental condition is so improved that the trial may proceed if the Court finds there is a substantial probability that within such additional period of time he will attain the capacity to permit the trial to proceed, or

2. The pending charges against Defendant are disposed of according to law, whichever is earlier.

(3) Defendant shall be transported by the United States Marshals Service ("USMS") to the designated facility and the USMS notify the Court upon his return.

(4) The Court's earlier ordered examination of Defendant pursuant to 18 U.S.C. § 4242, to determine Defendant's sanity at the time of the offense, or diminished capacity at the time of the offense, shall be addressed by the Bureau of Prisons psychological examiners after further treatment and assessment of Defendant when his mental condition permits.

**SO ORDERED.**

**ENTER:**

/s/  
**CURTIS L. COLLIER**  
**CHIEF UNITED STATES DISTRICT JUDGE**